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असाधारण

EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 15th December, 1967:—

BILL No. XXIV of 1967

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Companies (Amendment) Act, 1967. Short title.

1 of 1956. 2. For section 293A of the Companies Act, 1956, the following Substitu-
 section shall be substituted, namely:— tion of

“293A. Notwithstanding anything contained in this Act no company shall make any contribution to any political party or for any political purpose to any individual or body.”. new sec-
tion for
section
293A.

STATEMENT OF OBJECTS AND REASONS

The provision in the Companies Act, 1956, for making contributions to any political party or for any political purpose to any individual or body has been the subject matter of much criticism. Recent disclosures have shown the extent to which political life can be corrupted by big business Houses. In order to curb this tendency there should be a total ban on making such contributions by the Companies.

Hence this Bill.

CHITTA BASU.

BILL NO. XXI OF 1967

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1967. Short title.

2. In article 345 of the Constitution,—

(a) the words “or Hindi” shall be omitted; and

Amendment
of article
345.

(b) for the proviso, the following provisos shall be substituted, namely:—

“Provided however that the Legislature of a State may by law also adopt Hindi as a language to be used for all or any of the official purposes of that State in addition to the language or languages to be used for official purposes within the State:

Provided further that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.”

Amendment
of article
348.

3. In article 348 of the Constitution,—

(i) for clause (1), the following shall be substituted, namely:—

“(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law provides—

(a) all proceedings in the Supreme Court and in every High Court shall be in the English language;

(b) the authoritative texts—

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament,

(ii) of all Acts passed by Parliament and of all Ordinances promulgated by the President, and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament,

shall be in the English and Hindi languages;

(c) the authoritative texts—

(i) of all Bills to be introduced or amendments thereto to be moved in the House or either House of the Legislature of a State,

(ii) of all Acts passed by the Legislature of a State and of all Ordinances promulgated by the Governor of a State, and

(iii) of all orders, rules, regulations and bye-laws issued under any law made by the Legislature of a State,

shall be in the English language; and

(ii) in clause (3), for the words "sub-clause (b) of clause (1)" the words "sub-clause (c) of clause (1)" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend article 348 of the Constitution for giving effect to the increasing demand for the progressive use of Hindi for official purposes of the Union. It also seeks to enable the Legislature of a State to adopt Hindi as a language to be used for official purposes in addition to the language or languages to be used for official purposes within the State by amending article 345 of the Constitution.

TRILOKI SINGH.

Bill No. XIX of 1967

A Bill to provide for a uniform definition of workman.

Enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This act may be called the Workman (Definition) Act, 1967. Short
title,
extent
and
com-
mence-
ment.
- (2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of the Industrial Disputes Act, 1947 relate to industrial disputes concerning workmen employed under the Government of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-
tion of
workman
or em-
ployee.

2. (1) Notwithstanding anything contained in any law for the time being in force, "employee" or "workman" shall mean any person (including an apprentice) employed in any industry or establishment to do any skilled or unskilled manual, supervisory, technical or clerical work, for hire or reward, whether the terms of employment be expressed or implied and who gets his wages directly or indirectly from the employer and shall include any person employed by, or through, a contractor in or in connection with the industry or establishment, and for the purposes of any proceeding under any Act relating to any industrial dispute shall include any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment has led to that dispute, but shall not include any such person—

(i) who is subject to the Army Act, 1950 or the Air Force Act, 1950 or the Navy (Discipline) Act, 1934; or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who being employed in a supervisory capacity draws wages exceeding one thousand rupees per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature:

Provided, however, that for the purposes of compensation as provided for by the Workmen's Compensation Act, 1923, workman shall also mean any person who is— 8 of 1923.

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890 not permanently employed in any administrative, district or sub-divisional office of railway and not employed in any such capacity as is specified in Schedule II of the Workmen's Compensation Act, 1923, or 9 of 1890. 8 of 1923.

(ii) employed on monthly wages not exceeding one thousand rupees, in any such capacity as is specified in Schedule II of the Workmen's Compensation Act, 1923,

and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

2. Nothing in sub-section (1) shall be deemed to include a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

8 of 1923.

3. In the Workmen's Compensation Act, 1923, in section 2, in sub-section (1), for clause (n) the following shall be substituted, namely:—

‘(n) “workman” means a person as defined in section 2 of the Workman (Definition) Act, 1967.’

Amendment of section 2, Workmen's Compensation Act, 1923.

14 of 1947.

4. In the Industrial Disputes Act, 1947, in section 2, for clause (s) the following shall be substituted, namely:—

‘(s) “workman” means a workman as defined in section 2 of the Workman (Definition) Act, 1967.’

Amendment of section 2, Industrial Disputes Act, 1947.

34 of 1948.

5. In the Employees' State Insurance Act, 1948, in section 2, for clause (9) the following shall be substituted, namely:—

‘(9) “employee” means an employee as defined in section 2 of the Workman (Definition) Act, 1967.’

Amendment of section 2, Employees' State Insurance Act, 1948.

19 of 1952.

6. In the Employees' Provident Fund Act, 1952, in section 2, for clause (f) the following shall be substituted, namely:—

‘(f) “employee” means an employee as defined in section 2 of the Workman (Definition) Act, 1967.’

Amendment of section 2, Employees' Provident Fund Act, 1952.

STATEMENT OF OBJECTS AND REASONS

The term "workman" or "employee" has been defined or interpreted differently in different Acts. It is felt that in order to avoid confusion, there should be a uniform definition of these two terms in all the four Acts relating to labour and industry, namely; the Workmen's Compensation Act, 1923, the Industrial Disputes Act, 1947, the Employee's State Insurance Act, 1948 and the Employees' Provident Fund Act, 1952.

As a result of steep rise in prices, workers are now earning higher wages; it is therefore felt that the limit of exemption of a person employed in a supervisory capacity should be fixed at one thousand rupees instead of five hundred rupees as at present.

Hence this Bill.

ARJUN ARORA

BILL No. III of 1967

A Bill to provide for a uniform code of procedure for the adoption of children.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

CHAPTER I

1. This Act may be called the Indian Adoption of Children Act, 1967. Short title.

2. In this Act, unless the context otherwise requires— Definitions.

(a) "child" means a person of either sex who is under eighteen years of age;

(b) "court" means any district court within the local limits of whose jurisdiction the child to be adopted, or the petitioner seeking to adopt the child ordinarily resides;

(c) "guardian" means a person who has been appointed legal guardian of a person under the Guardians and Wards Act, 1890 or is a *de facto* guardian or is a testamentary guardian;

8 of 1890.

(d) "institution" means a social welfare institution, whether residential or non-residential, which holds a valid licence as prescribed;

(e) "parent" means the father or mother of a child born in wedlock, or the natural mother of a child born out of wedlock;

(f) "person in India" means an Indian citizen whether resident in India or abroad;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "related child" means a child related to the petitioner up to and including second degree on the maternal or paternal side of the petitioner and any child of the petitioner's son or daughter.

CHAPTER II

ADOPTION

Adop-
tions.

3. (1) Notwithstanding anything contained in any other law for the time being in force, no adoption shall be made after the commencement of this Act by any person in India except in accordance with the provisions of this Act and any adoption made in contravention of the said provisions shall be void: .

Provided that nothing in this Act shall be deemed to affect the safeguards laid down in the personal laws of the child sought to be adopted relating to his religion.

(2) An adoption which is void shall neither create in the adoptive family in favour of any person any rights which he could not have acquired except by reason of the adoption, nor destroy the rights of any person in the family of his birth.

Who may
adopt.

4. (1) Any person over the age of forty years who is of sound mind and who is in the opinion of the court a fit person to adopt a child may apply to the court to adopt a child:

Provided that—

(i) if the adoption is by a male and the person sought to be adopted is a female, the adoptive father shall be at least forty years older than the person sought to be adopted;

(ii) if the adoption is by a female and the person sought to be adopted is a male, the adoptive mother shall be at least forty years older than the person sought to be adopted.

(2) Where the person applying for adoption is married, the application shall be made jointly by the husband and the wife.

Explanation.—If a person has more than one wife living at the time of adoption, the consent of all the wives shall be necessary for adoption.

5. The court shall not allow an adoption to be made unless the consent in writing is obtained from—

Consent
for adop-
tion.

(a) both the parents of the child sought to be adopted or where one of them is dead, the surviving parent, or

(b) the legal guardian of the child sought to be adopted, if there is no surviving parent, or

(c) the institution, if the child has been surrendered for adoption to an institution, or

(d) such person or persons or institution as the court deems fit, where the child sought to be adopted is an orphan or has no legal guardian or is not in the custody of the court.

Explanation.—Consent shall not be required from the father of a child born out of wedlock, even when the father of such child has been ordered by a court of competent jurisdiction to support the child, nor shall the consent of the father of a child born out of wedlock be required after the marriage of the father to the mother of the said child, where the consent to adoption has been given by the mother prior to the marriage.

6. Notwithstanding anything contained in any other law for the time being in force, consent to adoption by a parent, executed and acknowledged in accordance with the provisions of this Act, or a surrender of a child by a parent, to an institution for the purpose of adoption, shall be irrevocable unless it is obtained by fraud, coercion or mistake.

Irrevoca-
bility of
consent.

7. (7) An application for adoption of a child shall be by petition to the court.

Proce-
dure for
adoption.

(2) Within fifteen days after the filing of such petition, the court shall order an investigation of the facts stated in the petition:

Provided that in the case of an institution, the court may in its discretion accept the investigation previously made in this regard.

(3) A petition to adopt a child shall state—

(i) the full name of the petitioner and his age;

(ii) the place of residence of the petitioner;

(iii) the time when the petitioner has acquired or intends to acquire custody of the child sought to be adopted and the name and address of person or institution from whom the child was or will be received;

(iv) the name, sex, place and date of birth, if known of the child sought to be adopted and if the date of birth cannot be ascertained, a medical certificate regarding the approximate age of the child;

(v) the names, if known and the place of residence, if known, of the parents of the child sought to be adopted, and whether such parents are under any legal disability:

Provided that if the rights of the parents over the child have been terminated by a court of competent jurisdiction or if the child has been surrendered to an institution, it shall not be necessary to state the name and address of the parents;

(vi) the name of the guardian, if any, of the child sought to be adopted, and the court which appointed such guardian:

Provided that when the child has no living parent and that no guardian of the child is known to exist, the petitioner may make a statement to that effect in the application and the court may pass such order as it deems fit on such statement;

(vii) the name to be given to, and the religion to be followed by, the child sought to be adopted.

(4) The petition shall also contain the consent in writing of the person or institution having the authority to give consent under section 5 of this Act to the adoption of the child by the petitioners:

Provided that where the person having the authority to give consent is under any legal disability, the petition shall be accompanied by an affidavit by the petitioner to that effect.

(5) A petition for adoption shall also be accompanied by a certified copy of the judgment or decree delivered or passed by any court in India or outside India relating to the custody of the child sought to be adopted and the adoptive, custodial or parental rights of the petitioner.

(6) A petition to adopt a related child shall also state the manner of relationship of the child to the petitioner.

(7) The petition shall include such further information and facts as the court may require for the determination of the adoption of the child.

8. (1) The court may appoint any person who in its opinion is competent to investigate accurately, promptly and fully, the facts contained in the petition and the character, reputation and general standing of the petitioner, to ascertain whether the petitioner is a proper person to adopt the child and whether the child is fit for adoption. Investigation and medical examination of the child.

(2) The person so appointed shall present to the court a written report as prescribed.

(3) In cases where the consent is given by an institution, the court in its discretion may accept the report of the investigation previously made.

(4) Such report shall be treated as confidential and withheld from inspection from the parties unless findings therein are adverse to the petitioner or the child sought to be adopted and in that event the court shall inform the petitioner of the relevant portions pertaining to said adverse findings and give the parties an opportunity of representing against such findings.

(5) Such investigation may not ordinarily be made when the petitioner seeks to adopt a related child, unless the court in its discretion so orders.

(6) The child sought to be adopted shall be examined by a Medical Board appointed for this purpose, which shall present a report as prescribed to the court.

(7) All expenses for investigation and examination of the child by the Medical Board shall be borne by the petitioner.

9. If after the examination of the reports presented under section 8 of this Act the court is satisfied, it may pass a preliminary decree allowing the child sought to be adopted to stay with the petitioner. The final decree shall be passed at the end of the probation period which shall not be less than six months or more than one year: Period of probation and supervision.

Provided that in the case of a petitioner intending to adopt a child from an institution that has already allowed the child to stay with him after due investigation, the court shall ordinarily accept this period of stay as part of the probation period.

Prohibition of consideration.

10. (1) No person shall receive or accept or pay any consideration directly or indirectly, for the adoption of a child.

(2) Any contravention of the provisions of sub-section (1) shall be punishable with fine which may extend to five hundred rupees or imprisonment which may extend to three months or both.

Savings.

11. Nothing contained in this Act shall affect any adoptions made before the commencement of this Act, and the validity and effect of any such adoption shall be determined as if this Act had not been passed.

CHAPTER III

Licensing of institutions for the purpose of adoption.

12. (1) After the commencement of this Act no institution shall give a child in adoption without obtaining a licence from the State Government concerned.

(2) An institution desirous of giving a child in adoption shall make an application to the prescribed authority in the prescribed manner.

Rules.

13. (1) The Central Government may make rules for the carrying out of any or all the purposes of this Act.

(2) Without prejudice to the foregoing, the Central Government may make rules for:—

(i) the manner of investigation of facts set forth in the petition and the form in which reports of investigation and Medical Boards are to be presented;

(ii) the procedure and manner of obtaining consent;

(iii) determination of probation period; and

(iv) licensing of institutions and applications by them for the purpose of adoption.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid

or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

STATEMENT OF OBJECTS AND REASONS

To promote the best interests of the child, and to safeguard the rights of his natural and his adoptive parents an effective adoption procedure is necessary. This will reduce to a minimum the hazards that now surround adoption in many places, and would also bring about a wider use of the legal safeguards to which children without families of their own are entitled.

At present adoption or "*Dattakavidhan*" is considered necessary only to perform sacramental and ablution rites for ancestors, and only a son is entitled to perform this ceremony. Therefore, girls are not given or taken in adoption and a male child is taken in adoption which is nearest of kin or comes from the same family of the adoptive father. In certain cases a woman has no right to adopt except with the assent of her husband. All these lacunae in the existing law require thorough examination and change and a general law of adoption which can apply to all communities is urgently necessary.

Nothing in this Bill is intended to affect the existing law of adoption applicable to Hindus. This Bill is primarily intended for the benefit of communities other than Hindus. It is, however, also made clear that if Hindus are desirous of adopting a child under this Act, it shall be competent for them to do so.

TARA R. SATHE.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 authorises the Central Government to make rules to carry out the purposes of the Act.

The rule-making power sought to be conferred on the Central Government is of normal character.

B. N. BANERJEE,
Secretary.

